

**13-42-117 Prerequisites for providing debt-management services.**

- (1) Before providing debt-management services, a provider shall give the individual an itemized list of goods and services and the charges for each. The list shall be clear and conspicuous, be in a record the individual may keep whether or not the individual assents to an agreement, and describe the goods and services the provider offers:
  - (a) free of additional charge if the individual enters into an agreement;
  - (b) for a charge if the individual does not enter into an agreement; and
  - (c) for a charge if the individual enters into an agreement, using the following terminology, as applicable, and format:

Set-up fee \_\_\_\_\_  
dollar amount of fee

Monthly service fee \_\_\_\_\_  
dollar amount of fee or method of determining amount

Settlement fee \_\_\_\_\_  
dollar amount of fee or method of determining amount

Goods and services in addition to those provided in connection with a plan:  
\_\_\_\_\_  
(item) dollar amount or method of determining amount  
\_\_\_\_\_  
(item) dollar amount or method of determining amount.
- (2) A provider may not furnish debt-management services unless the provider, through the services of a certified counselor:
  - (a) provides the individual with reasonable education about the management of personal finance;
  - (b) has prepared a financial analysis including at least the following matters affecting the individual's financial condition:
    - (i) assets;
    - (ii) income;
    - (iii) debt, including secured debt; and
    - (iv) other liabilities; and
  - (c) if the individual is to make regular, periodic payments to a creditor or a provider:
    - (i) has prepared a plan for the individual;
    - (ii) has made a determination, based on the provider's analysis of the information provided by the individual and otherwise available to it, that the plan is suitable for the individual and the individual will be able to meet the payment obligations under the plan; and
    - (iii) believes that each creditor of the individual listed as a participating creditor in the plan will accept payment of the individual's debts as provided in the plan.
- (3) Before an individual assents to an agreement to engage in a plan, a provider shall:
  - (a) provide the individual with a copy of the analysis and plan required by Subsection (2) in a record that identifies the provider and that the individual may keep whether or not the individual assents to the agreement;
  - (b) inform the individual of the availability, at the individual's option, of assistance by a toll-free communication system or in person to discuss the financial analysis and plan required by Subsection (2); and
  - (c) with respect to all creditors identified by the individual or otherwise known by the provider to be creditors of the individual, provide the individual with a list of:
    - (i) creditors that the provider expects to participate in the plan and grant concessions;
    - (ii) creditors that the provider expects to participate in the plan but not grant concessions;
    - (iii) creditors that the provider expects not to participate in the plan; and

- (iv) all other creditors.
- (4) Before an individual assents to an agreement, the provider shall inform the individual, in a separate record that the individual may keep whether or not the individual assents to the agreement:
  - (a) of the name and business address of the provider;
  - (b) that plans are not suitable for all individuals and the individual may ask the provider about other ways, including bankruptcy, to deal with indebtedness;
  - (c) of the amount of time necessary to achieve the results that the provider represents to be achievable;
  - (d) if the provider intends to include a settlement offer to any of the individual's creditors or debt collectors:
    - (i) of the time by which the provider will make a bona fide settlement offer to any of the individual's creditors or debt collectors; and
    - (ii) of the amount of money or the percentage of each outstanding debt that the individual must accumulate before the provider will make a bona fide settlement offer to each creditor or debt collector;
  - (e) that establishment of a plan may adversely affect the individual's credit rating or credit scores;
  - (f) that nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including litigation;
  - (g) if the provider requests or requires the individual to place money in an account at an insured financial institution, that the individual:
    - (i) owns the funds held in the account;
    - (ii) may withdraw from the provider's plan at any time without penalty; and
    - (iii) is entitled to receive all money in the account, other than money that the provider earns as provided in Section 13-42-123, at the time the individual withdraws from the provider's plan;
  - (h) unless it is not true, that the provider may receive compensation from the creditors of the individual; and
  - (i) that, unless the individual is insolvent, if a creditor settles for less than the full amount of the debt, the plan may result in the creation of taxable income to the individual, even though the individual does not receive any money.
- (5) If a provider may receive payments from an individual's creditors and the plan contemplates that the individual's creditors will reduce finance charges or fees for late payment, default, or delinquency, the provider may comply with Subsection (4) by providing the following disclosure, surrounded by black lines:

IMPORTANT INFORMATION FOR YOU TO CONSIDER

- (1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.
- (2) Using a debt-management plan may make it harder for you to obtain credit.
- (3) We may receive compensation for our services from your creditors.

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Name and business address of provider

- (6) If a provider will not receive payments from an individual's creditors and the plan contemplates that the individual's creditors will reduce finance charges or fees for late payment, default, or delinquency, a provider may comply with Subsection (4) by providing the following disclosure, surrounded by black lines:

IMPORTANT INFORMATION FOR YOU TO CONSIDER

- (1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

- (2) Using a debt-management plan may make it harder for you to obtain credit.

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Name and business address of provider

- (7) If an agreement contemplates that creditors will settle debts for less than the full principal amount of debt owed, a provider may comply with Subsection (4) by providing the following disclosure, surrounded by black lines:

IMPORTANT INFORMATION FOR YOU TO CONSIDER

- (1) Our program is not right for all individuals, and you may ask us to provide information about bankruptcy and other ways to deal with your debts.
- (2) Nonpayment of your debts under our program may
- hurt your credit rating or credit scores;
  - lead your creditors to increase finance and other charges; and
  - lead your creditors to undertake activity, including lawsuits, to collect the debts.
- (3) Reduction of debt under our program may result in taxable income to you, even though you will not actually receive any money.

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Name and business address of provider

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